



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
AUCTIONEER COMMISSION
Davy Crockett Tower, Suite 635
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243-1152
(615) 741-3236

The Tennessee Auctioneer Commission held its meeting January 7, 2008, at 9:00 a.m. in Nashville, Tennessee, at the Davy Crockett Tower in Room 640. Chairman Kenneth Dreaden called the meeting to order, and the following business was transacted.

COMMISSION MEMBERS PRESENT

KENNETH DREADEN
HOWARD PHILLIPS
BOBBY COLSON
MARVIN ALEXANDER
MARY FRANCES RUDY

STAFF MEMBERS PRESENT

Lynn McGill, Administrative Director
Sheila Piper, Administrative Assistant
Adrian Chick, Staff Attorney

ADOPT AGENDA

Motion was made by Marvin Alexander and seconded by Bobby Colson to adopt agenda. Motion carried. No opposition.

MINUTES

Minutes from the meeting of November 2007 were presented to the Commission Members for approval. Motion was made by Mary Frances Rudy and seconded by Howard Phillips to approve said minutes. Motion carried. No opposition.

Michaele Watson appeared before the Commission Members representing All Star Professional Training. Ms. Watson stated that she had submitted documentation to be approved for 6 hours of online continuing education. Sheila Piper stated this office never received those documents. The Commission Members agreed for Ms. Watson to resubmit the continuing education application and a continuing education outline to be presented at the next Commission meeting.

Sheila Piper re-presented the reciprocal application of Don Rose to the Commission Members.

Motion was made by Mary Frances Rudy and seconded by Marvin Alexander to deny application based on proof of residence. Motion carried. No opposition.

Sheila Piper presented a letter from Roy D. Roberson, license number 4086, to the Commission Members requesting waiver of late fees. Motion was made by Mary Frances Rudy and seconded by Marvin Alexander to approve the request. Motion carried. No opposition.

Howard Phillips and Rep. Judd Matheny discussed PSI. Rep. Matheny stated that PSI should be more conscience about how they process paperwork. Staff Attorney suggested an amendment to PSI's contract.

Howard Phillips discussed automobile legislation and requested support for automobile legislation. He stated that Tony Thompson has been hired by a group of auctioneers as lobbyist for automobile legislation.

Kenneth Dreaden discussed Real Estate Agents referring auctions to auctioneers. He stated most real estate professionals do not know how to legally handle a referral to an auctioneer. Marvin Alexander suggested that the Real Estate Commission address the matter in their newsletter.

Staff Attorney presented the following complaints to the Commission Members.

1. L07-AUC-RBS-2007060801. TINSLEY PRESTON.

Agreed Order and Final Order presented and signed. Ms. Preston volunteered to surrender her license.

Tinsley Preston agreed to volunteer revocation of license for:

62-19-112 (b4)

- (4) Failing to account for or remit, within a reasonable time, any money belonging to others that comes into the licensee's possession, commingling funds of others with the licensee's own, or failing to keep such funds of others in an escrow or trustee account; provided, however, that nothing in this section shall be construed to require an auto auction as defined in § [55-17-102](#)(2)(A) to maintain or use an escrow account when such auction does not accept and deposit funds of others;

62-19-112 (b12)

- (12) Any conduct of any auctioneer which demonstrates improper, fraudulent, incompetent or dishonest dealings.

Motion was made by Bobby Colson and seconded by Mary Frances Rudy to take Legal's recommendation and close. Motion carried. No opposition.

2. L07-AUC-RBS-2007076011. Represented. HENDERSONVILLE AUCTION & REALTY

Complaint was presented at the November, 2007 meeting as follows:

Minutes

Complaint: *The complainant alleges that she was the winning bidder on several items of personal property but was later informed that the item would not be sold because the reserve had not been met.*

Response: *Respondent states, "We would like to state that we have never represented to our customers that our monthly sale is an absolute auction. It is simply advertised as a public auction. Multiple items do carry reserves."*

Recommendation: *Consent Order assessing a civil penalty of \$250 and authorization for hearing for violation of Rule 0160-1-.20(3) (failure to disclose in advertisement that some items will be auctioned with reserve).*

The Commission requested additional information from the Respondent prior to making a determination. Additional information was received December 19, 2007.

After discussion, motion was made by Marvin Alexander and seconded by Howard Phillips to close. Motion carried. Mary Frances Rudy voted no.

3. L07-AUC-RBS-200708556

Complaint: Complaint is based upon issues that are currently the subject of litigation in Perry County, Tennessee which includes allegations of misrepresentation, fraud, violations of the Tennessee Consumer Protection Act, and professional negligence.

Motion was made by Mary Frances Rudy and seconded by Marvin Alexander to take Legal's recommendation to defer pending the outcome of the litigation. Motion carried. No opposition.

4. L07-AUC-RBS-2007056951

Complaint: Complaint was originally presented at the August 6, 2007 meeting alleging that the Respondent had engaged in unlicensed activity. The Commission approved a Consent Order in the amount of \$500. The Consent Order was sent by certified mail on two occasions but returned both times by the post office as "unclaimed".

After a lengthy discussion, motion was made by Marvin Alexander and seconded Howard Phillips to schedule a formal hearing. Motion carried. No opposition.

5. L07-AUC-RBS-2007086651 CROSS ROADS AUCTION

Complaint: Respondent is a licensed firm, but failed to include the firm number on an advertisement. The Respondent is no longer in business.

Motion was made by Mary Frances Rudy and seconded by Howard Phillips to take Legal's recommendation to close. Motion carried. No opposition.

6. L07-AUC-RBS-2007053181

Complaint: Complaint alleging unlicensed conduct was presented originally on August 6, 2007 and a Consent Order in the amount of \$3,000 was approved by the Commission. The Minutes

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Respondent subsequently contacted the Commission and stated that he has no means of paying the civil penalty, is in very poor health and is no longer engaging in unlicensed conduct.

Motion was made by Mary Frances Rudy and seconded by Marvin Alexander for Mr. Davis to present evidence of his inability to pay be substantiated, matter be dismissed. Motion carried. Howard Phillips voted no.

7. L07-AUC-RBS-2007085621 HILCO INDUSTRIAL

Complaint: The Respondent advertised on its website but failed to include the license number of the firm conducting the auction.

Response: The Respondent states that the firm was unaware the web pages online are required to contain the firm number, but will do so in the future.

Motion was made by Mary Frances Rudy and seconded by Howard Phillips to take Legal's recommendation to close with Letter of Caution. Motion carried. No opposition.

There being no further business, meeting adjourned.

APPROVED:

Kenneth Dreaden
Chairperson

Howard Phillips
Vice-Chairperson

Marvin Alexander
Board Member

Bobby Colson
Board Member

Mary Francis Rudy
Board Member